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**FISCAL IMPACT STATEMENT**

**LS 6690**

**BILL NUMBER:** SB 193

**NOTE PREPARED:** Mar 23, 2006

**BILL AMENDED:** Mar 14, 2006

**SUBJECT:** Controlled Substances.

**FIRST AUTHOR:** Sen. Bray

**FIRST SPONSOR:** Rep. Foley

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

*Destruction of Chemically Contaminated Equipment:* The bill permits the destruction of chemically contaminated equipment used in the illegal manufacture of a controlled substance if certain conditions are met.

*Retailer's Log of Sales:* The bill provides that a law enforcement officer has the right to inspect a retailer's log of ephedrine or pseudoephedrine sales. It prohibits a person from selling or releasing a log or the records from the completion of a log for commercial purposes. It also allows the Indiana Criminal Justice Institute (ICJI) to obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes.

*Criminal Penalties:* The bill prohibits the possession of two or more precursors with the intent to manufacture a controlled substance, and makes the possession of anhydrous ammonia with the intent to manufacture amphetamine a Class D felony that may be enhanced under certain circumstances.

*Notification of Department of Child Services:* The bill requires a law enforcement agency that discovers a child less than 18 years of age at a drug laboratory to notify the Department of Child Services.

*Reporting Methamphetamine Abuse:* The bill defines "methamphetamine abuse" and requires law enforcement agencies to report methamphetamine abuse to the Criminal Justice Institute.

*Methamphetamine Crimes:* The bill removes methamphetamine from the crimes of: (1) dealing in cocaine, a narcotic drug, or methamphetamine; and (2) possession of cocaine, a narcotic drug, or methamphetamine; and establishes new crimes of dealing in methamphetamine and possession of methamphetamine.

*Intoxication:* The bill specifies that, for purposes of the law concerning motor vehicles, a person is intoxicated if the person is under the influence of: (1) model glue or certain other substances; or (2) nitrous oxide.

*Ingested or Inhaled Fumes:* The bill defines inhaling a toxic vapor, a Class B misdemeanor, as the act of ingesting or inhaling, with intent to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses, the fumes of amyl butrate, isobutyl nitrate, freon, chlorinated hydrocarbons, methylene chloride, hexane, ether, chloroform, halothane, or any other chemical having the property of releasing toxic vapors.

*Conformance:* The bill makes conforming amendments.

**Effective Date:** Upon passage; July 1, 2006.

**Explanation of State Expenditures:** *Criminal Penalties:* There are no data available to indicate how many more offenders would be convicted of possession of a precursor, a Class D felony (or a Class C felony, under certain circumstances), as a result of adding amphetamine to the possession of anhydrous ammonia or ammonia offense, or replacing the specific substances with the broader term "controlled substance" for the possession of two reagents offense.

*Background on Criminal Penalties:* In 2004 and 2005, there was an average of 22 offenders a year committed to a state prison facility for Class C felony possession of a precursor, and between 2001 and 2005, there were 64 offenders a year committed for the Class D felony. (Specific information about the details of the crime are not available in the Department of Correction (DOC) data). The average length of stay in DOC facilities for all Class C felony offenders is approximately two years and for all Class D felony offenders is approximately ten months.

*Destruction of Chemically Contaminated Equipment:* Based on current Indiana State Police practice, costs would remain unchanged if law enforcement agencies are allowed to destroy chemically contaminated equipment including drug paraphernalia under certain circumstances.

*Notification of Department of Child Services:* Under current law, a law enforcement agency would have to notify DCS if there are children under the age of 14 years old discovered in a methamphetamine laboratory. Under the bill, the age would be increased to 18 years and the location would be a site for the illegal manufacture of a controlled substance. If DCS has to investigate more sites either because of the increase in age or additional locations, expenditures for investigations could increase. DCS does not identify the costs of investigations separately from costs for services, and there are no data available to indicate how many more investigations may be required.

*Reporting Methamphetamine Abuse:* The bill would require law enforcement agencies to report to the ICJI about methamphetamine abuse, including the use, sale, manufacture, transport, or delivery of methamphetamine or its precursors. ICJI will adopt guidelines about the information to be collected and prescribe the forms and manner that information will be reported. Administrative costs could increase for reporting methamphetamine abuse, but the increase is expected to be minimal and will be based on the

guidelines adopted by the ICJI.

*Background on Reporting Methamphetamine Abuse:* The ICJI is developing a web-based form to collect information, which is expected to cost \$150,000. ICJI expects to have minimal ongoing administrative costs since information will download into a database for analysis. Currently, local law enforcement agencies report information about methamphetamine laboratories to the Indiana State Police.

*Methamphetamine Crimes:* Separating methamphetamine crimes from cocaine and narcotic drug crimes is not expected to have a fiscal impact. Currently, local law enforcement provides information to the Indiana State Police on all criminal arrests. The separation will provide more detailed arrest information on methamphetamine crimes.

*Intoxication:* The bill adds glue sniffing to the definition of intoxication for purposes of the motor vehicle code. The definition of intoxication in the motor vehicle code applies to compensation for victims of violent crimes, suspension of drivers licenses, traffic safety program funds, and crimes concerning driving while intoxicated. There are no data available to indicate how many more offenders may be subject to these provisions as a result of a change in the definition of intoxication. The criminal offenses range from Class C misdemeanors to Class B felonies which could affect admissions to state correctional facilities or local jails, and the amount of fine revenues received by state or local government.

*Background on Intoxication:* The following table shows the annual average number of citations issued between 2000 and 2004 for operating a vehicle while intoxicated offenses.

Offense	Indiana Code	Annual Average Number of Citations (2000-2004)
Operating while intoxicated (OWI)	9-30-5-2	20,701
OWI Unspecified	9-30-5	43
OWI with a prior OWI within 5 Years	9-30-5-3	4,405
OWI Resulting in Injury	9-30-5-4	85
OWI Resulting in Death	9-30-5-5	32

**Explanation of State Revenues:** *Ingested or Inhaled Fumes:* There are no data available to indicate how many more offenders may be convicted of inhaling toxic vapors, a Class B misdemeanor, if various substances are added to the list of prohibited substances. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Reporting Methamphetamine Abuse and Methamphetamine Crimes:*

The bill could increase administrative costs for local law enforcement agencies to report methamphetamine abuse to the ICJI. The increased administrative cost depends on the guidelines adopted by ICJI.

*Ingested or Inhaled Fumes:* A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Ingested or Inhaled Fumes:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** State Police; Department of Child Services; Department of Correction; Bureau of Motor Vehicles.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Captain Steve Hillman, Indiana State Police, 317-232-5899; Mike Eslinger, Indiana Sheriff's Association, 317-356-3633; Jason Hutchens, Indiana Criminal Justice Institute, 317-232-1300; *Bureau of Motor Vehicles Citation Listing Report by Offenses Entered.*

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